

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

**IN RE: DIET DRUGS
(PHENTERMINE, FENFLURAMINE,
DEXFENFLURAMINE) PRODUCTS
LIABILITY LITIGATION**

MDL DOCKET NO. 1203

MDL CASE NO.
02-20143

THIS DOCUMENT RELATES TO:

**CYNTHIA ACOSTA, ET AL.
(WANDA HERRINGTON)**

VERSUS

**AMERICAN HOME PRODUCTS
CORPORATION, ET AL.**

JUDGE BARTLE

MOTION TO WITHDRAW AS COUNSEL OF RECORD

COMES NOW, Robert G. Harvey, Sr., A.P.L.C., Jacobs & Sarrat, A.P.L.C., and O'Quinn, Laminack & Pirtle, who respectfully files this, their Motion to Withdraw as Counsel of Record, as to Plaintiff Wanda Herrington and in support of said Motion, would show this Honorable Court as follows:

1. Robert G. Harvey, Sr., A.P.L.C., Jacobs & Sarrat, A.P.L.C., and O'Quinn, Laminack & Pirtle, were hired by Plaintiff to pursue her claims against Defendant Wyeth for injuries she sustained as a result of her ingestion of the prescription diet drugs phentermine, fenfluramine and/or dexfenfluramine.

2. Per Plaintiff's instructions, Robert G. Harvey, Sr., A.P.L.C., Jacobs & Sarrat, A.P.L.C., and O'Quinn, Laminack & Pirtle, opted her out of the Nationwide Settlement Agreement and filed an individual lawsuit on her behalf in Louisiana state

court. That lawsuit was later removed to the United States District Court for the Eastern District of Louisiana and subsequently transferred to this Court for inclusion in MDL No. 1203.

3. On December 29, 2003, a certified letter was forwarded to Plaintiff's home address explaining that her case was subject to dismissal. The letter was returned by the Post Master as unclaimed. On February 5, 2004 the same correspondence was forwarded to Plaintiff's home address via Federal Express. Plaintiff signed for the federal express letter on January 6, 2004.

4. On February 11, 2004, Plaintiff instructed the lawyers of Robert G. Harvey, Sr., A.P.L.C., Jacobs & Sarrat, A.P.L.C., and O'Quinn, Laminack & Pirtle to withdraw as counsel of record and insisted that she was contacting another attorney.

5. Plaintiff has since failed to identify newly retained counsel. Despite numerous telephone calls, Plaintiff's counsel has been unable to determine the identity, if any, of Ms. Herrington's new counsel.

6. Pursuant to Plaintiff's instruction, as well as the inability to communicate with Plaintiff, Plaintiff's counsel believe that they are entitled to be released from this matter without further delay.

FOR THESE REASONS, Robert G. Harvey, Sr., A.P.L.C., Jacobs & Sarrat, A.P.L.C., and O'Quinn, Laminack & Pirtle, request that this Court grant their Motion to Withdraw as Counsel of Record and grant such other and further relief as it deems necessary.

Respectfully submitted,

O'QUINN, LAMINACK & PIRTLE

 *Rebecca M. Urrutia*
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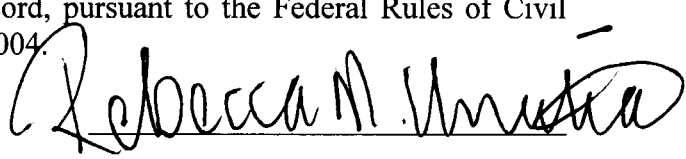
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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing has been forwarded to all known counsel of record, pursuant to the Federal Rules of Civil Procedure on this 14th day of Dec, 2004.

 *Rebecca M. Urrutia*

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PRETRIAL ORDER NO. _____

AND NOW, TO WIT, this ____ day of _____, 2004, upon consideration of the motion of the law firms of Robert G. Harvey, Sr., A.P.L.C., Jacobs & Sarrat, A.P.L.C., and O'Quinn, Laminack & Pirtle, to withdraw as counsel for Plaintiff Wanda Herrinton in the above captioned action,

IT IS ORDERED that withdrawal of Robert G. Harvey, Sr., A.P.L.C., Jacobs & Sarrat, A.P.L.C., and O'Quinn, Laminack & Pirtle, as counsel is permitted, subject to the following conditions:

1. Plaintiff's counsel shall send a letter to the plaintiff by certified mail that will include the following:

- (a) a copy of this Order;
 - (b) a statement outlining to Plaintiff the importance of her proceeding on this case with counsel familiar with the law and the procedure in the federal court of cases similar to this case;
 - (c) Plaintiff's counsel's letter shall also provide that Plaintiff shall have thirty (30) days from the date of this Order to secure new counsel if she intends to proceed with counsel in this manner;
 - (d) Plaintiff's counsel's letter shall also state that the court intends to grant present Plaintiff's counsel's motion to withdraw at the expiration of the thirty (30) day period, and the case shall proceed on its normal trial schedule whether or not plaintiff has secured new counsel;
2. Plaintiff's counsel shall file with the Clerk of Court within ten (10) days of the date of this Order a certificate that both evidences that Plaintiff's counsel has complied with all of the foregoing requirements of this Order and states the plaintiff's last known address.
3. Thirty (30) days from the date of this Order, provided all of the foregoing steps have been completed by Plaintiff's counsel, Plaintiff's counsel shall be deemed to be released from further responsibility to the court as counsel for Plaintiff in this civil action.

SO ORDERED.

HON. HARVEY BARTLE, III